



PATENT

ATTORNEY DOCKET NO. 00786/048005

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Warren M. Zapol et al. Art Unit: 3307
Serial No.: 08/353,508 Examiner: A. Lewis
Filed : December 9, 1994
Title : METHODS AND DEVICES FOR TREATING PULMONARY
 VASOCONSTRICTION AND ASTHMA

Assistant Commissioner for Patents
Washington, DC 20231

SUPPLEMENTAL DECLARATION
SUPPORTING THE DECLARATION UNDER 37 CFR 1.131

1. I am an attorney for the Applicant in the above-referenced application. I assisted in the preparation of the original application, USSN 07/622,865, from which the present application claims priority (the "parent application").

2. My attorney billing records for the parent application indicate that work was carried out in the course of preparing the parent application on each of the following dates in 1990: November 21, 26, 27, 28, and 29, and December 3, 4, and 5. (November 22-25 was the Thanksgiving holiday weekend in 1990.) A partial copy of these billing records, with irrelevant text omitted, is attached as Appendix 1. The parent application was filed in the U.S. Patent and Trademark Office on December 5,

Date of Deposit

March 19, 1997

I hereby certify under 37 CFR 1.8(a) that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage on the date indicated above and is addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

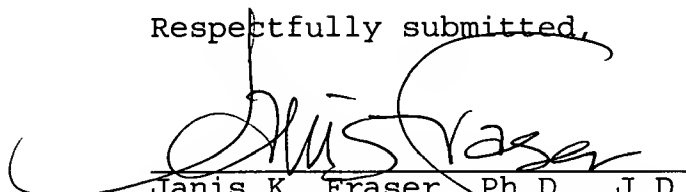
Mary E. Bowyer

1990. Thus, the parent application was diligently prepared from November 21, 1990, until the December 5, 1990 filing date.

Respectfully submitted,

Date:

March 19, 1997


Janis K. Fraser, Ph.D., J.D.
Reg. No. 34,819

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804

Telephone: 617/542-5070
Facsimile: 617/542-8906
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DECLARATION UNDER 37 CFR 1.131

1. We are the coinventors of the subject matter of the above-referenced application. We are also the coinventors on the predecessor applications from which the above-referenced application claims priority under 35 USC §1.120: USSN 07/767,234 and USSN 07/622,865. The latter is referred to below as the "parent application".

2. Attached are copies of five pages (numbered 10, 11, and 33-35) of a draft of the parent application. This draft was prepared in Boston, Massachusetts, by attorneys for the General Hospital Corporation (owner of the above-referenced application and the parent application), and was faxed to one of us (Warren Zapol) at his office in Boston on November 21, 1990, as evidenced by the fax machine date at the top of each page. The pages numbered 33-35 include draft claims corresponding to what are claims 16-21, 31-36, 69-73, and 75 in the present application. The pages numbered 10 and 11 provide further evidence that the presently claimed device was fully conceived by us by the time the draft application was prepared. This establishes that we had conceived of the invention in the United

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Mary L. Bowzer

States before November 21, 1990, which is just prior to the November 26, 1990, filing date of Thompson et al., U.S. Patent No. 5,187,305.

3. Completion of the application was diligently pursued by us and the attorneys between the November 21, 1990, date of the draft application and the date the completed application was filed. Attorney billing records for this application indicate that work was carried out in the course of preparing this application on each of the following dates in 1990: November 21, 26, 27, 28, and 29, and December 3, 4, and 5. The application was filed in the U.S. Patent and Trademark Office on December 5, 1990.

Declarants further state that all statements made herein of their own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Date

Warren M. Zapol

1997 March 4
Date

Claes Frostell
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2/13/97
Date

Warren M. Zapol
Warren M. Zapol

Date

Claes Frostell

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